

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

WENDELL LEONARD CRUSE,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 3:17-00485
)	
ERNIE BLACKBURN, <i>et al.</i>,)	
)	
Defendants.)	

ORDER

Pending before the Court is Plaintiff’s Motion to Amend his Complaint (Document No. 12), filed on March 13, 2017. In support, Plaintiff states that he wishes to amend his Complaint to add “two new defendants and two new counts.” (*Id.*) Plaintiff attaches a copy of his “Amended Complaint” as an Exhibit. (Document No. 12-1.)

Rule 15(a)(1)(A) of the Federal Rules of Civil Procedure provides that a party may amend his pleadings “once as a matter of course within: (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1). “In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). “[A] motion to amend should be denied only where it would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile.” *Marfork Coal Co. v. Smith*, 2011 WL 744727 (S.D.W.Va. Feb. 23, 2011)(J. Berger)(citations omitted).

The Court finds that Plaintiff filed his Motion to Amend and Proposed Amended Complaint within 21 days after service of Defendants' responsive pleading. Additionally, the current Defendants have filed no objections to the Motion. Under these circumstances, it is appropriate to grant Plaintiff's Motion. Based upon the foregoing, it is hereby **ORDERED** that Plaintiff's Motion to Amend (Document No. 12) is **GRANTED**. The Clerk is directed to file Plaintiff's Amended Complaint (Document No. 12-1) and modify the docket sheet to reflect Sean Hammers, Cabell County Prosecutor, and Sharon Frazier, Assistant Cabell County Prosecutor, as Defendants. It is further **ORDERED** that the Clerk shall issue process in this case by preparing and serving Summonses and a copy of Plaintiff's Amended Complaint (Document No. 12-1) upon the Defendants as specified in Rule 4 of the Federal Rules of Civil Procedure.

The Clerk is directed to send a copy of this Order to Plaintiff, who is acting *pro se*, and counsel of record.

ENTER: March 30, 2017.



Omar J. Aboulhosn
United States Magistrate Judge